IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.01.2005

Coram:

The Honourable Mr.MARKANDEY KATJU, Chief Justice
and
The Honourable Mr.Justice D.MURUGESAN

Writ Appeal No. 1738 of 2004
and
Contempt Petition No. 1021 of 2004

W.A.No. 1738 of 2004

1. The Assistant General Manager
   SBI Region II, Region Office,
   Madurai - 2.

2. The Zonal Manager,
   State Bank of India,
   Zonal Office,
   Melur Road, Madurai - 2. ... Appellants/RR1 & 2

vs.

1. S.Jegannathan

2. The Central Government Industrial
   Tribunal - cum - Labour Court,
   Chennai - 6. ... Respondents/Petitioner & 3rd Respondent

WEB COPY

Contempt Petition No. 1021 of 2004

S. Jegannathan
No.11/10, Kaliamman Koil Street,
Railway Station Road,
Thiruthangal,
Virudhu Nagar District - 626 130. .... Petitioner

Vs.

https://hcservices.ecourts.gov.in/hcservices/

1. S. Chandra Mouli,
The Assistant General Manager,
SBI, Region II,
Regional Office,
Madurai – 2.

2. Muralidharan,
The Zonal Manager,
SBI Zonal Office,
Melur Road, Madurai – 2. ….
Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P.No.29980 of 2002 dated 27.2.2004 and Contempt Petition under Sections 10 & 12 of the Contempt of Courts Act.

For Appellant … Mr.N.R.Chandran,
in W.A.No.1738/04 Senior Counsel for
and Respondent in Mr.P.Sukumar
Cont.Petition No.
1021/2004.

For Respondents … Mr.M.Muthusamy
in W.A.No.1738/04
and petitioner in
Cont.Petition No.
1021/2004.

J U D G M E N T

THE HONOURABLE THE CHIEF JUSTICE

This writ appeal has been filed against the order of the learned single Judge dated 27.2.2004.

2. Heard learned counsel for the parties.

3. The first respondent in this appeal (writ petitioner) was an employee of the State Bank of India. He was given charge sheet dated 30.11.1996 containing 12 charges, which were as follows:-

" (i) The petitioner passed vouchers for payment unauthorisedly.

(ii) The petitioner raised a withdrawal slip for a sum of Rs.354/- from his savings bank account No.S32 in S.B.I, Tiruchuli even

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

though he had only Rs.2/- to the credit of his account.

(iii) Instead of signing in the attendance register, the petitioner had written his grievances as to his inability to come to office at 10'O clock and that his seniority in the respondent bank was not properly appreciated.

(iv) The petitioner had written certain unwarranted comments in the day book to the effect that the management did not follow its own orders; nor respond to the orders of the Court.

(v) The petitioner cancelled the savings bank vouchers dated 23.7.1996 and 25.7.1996, when he had no power to do so.

(vi) The petitioner had cancelled the initials of the checking officials with respect to the savings bank ledger namely S.B.P1/41, 24.35281; 24/3545; 25/3665.

(vii) The petitioner shouted at the Branch Manager in louder voice on 15.2.1996, presuming that the branch manager refused to exercise his power when he approached him for renewing the overdraft facility.

(viii) The petitioner is in the practice to attend the office late everyday.

(ix) The petitioner came late on 18.7.1996, and however asked the branch manager to be punctual.

(x) The petitioner placed placards on 23.8.1996 with derogatory remarks on the officials of the bank.

(xi) The petitioner was working in the counter between 19.6.1996 to 24.6.1996 without wearing the shirt, spoiling the entire decorum of the bank and causing much embarrassment to the transacting customers as well as to the staff.

(xiii) The petitioner made some derogatory comments in the bank hall against officials of the local head office at Chennai."

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. On the basis of the above charges, a domestic enquiry was held in which the petitioner was given opportunity of hearing, and the Enquiry Officer found that the charges levelled against the writ petitioner were held to be proved. On the basis of this, the disciplinary authority passed an order dismissing the writ petitioner from service by order dated 03.01.1998. He filed an appeal, in which the punishment was reduced to a discharge. The writ petitioner raised an industrial dispute, but the Industrial Tribunal by its award dated 01.04.2002 confirmed the order of discharge passed by the appellate authority and rejected the contention of the writ petitioner that the findings of the Enquiry Officer were perverse and mala fide or that the punishment was disproportionate.

5. Aggrieved the petitioner filed a writ petition before this Court, which was allowed by the learned single Judge, and hence this writ appeal by the employer.

6. In our opinion, the order of the learned single Judge cannot be sustained. It is well settled that in writ jurisdiction, the High Court cannot interfere with the findings of fact. Very serious charges were levelled against the first respondent in this appeal (writ petitioner), and he was found guilty of these charges and was consequently dismissed. The Labour Court also upheld the findings of the Enquiry Officer. As already stated, the High Court cannot interfere with the findings of fact of the Labour Court and of the Enquiry Officer in writ jurisdiction.

7. It may be mentioned that the writ petitioner had also been punished on several earlier occasions for misconducts, and details of the same have been given in paragraphs 7 to 10 of the counter affidavit filed in the writ petition. As stated in paragraph 10 of the counter affidavit filed before the learned single Judge, ever since his transfer to Tiruchuli Branch, the petitioner was behaving in a highhanded manner and was quarrelling with the Branch Manager and other staff members. He was habitually coming late and would shout at the Branch Manager making all sorts of improper allegations. He committed various misconducts and hence charge sheet was given to him on 30.11.1996 listing 12 charges against him. On these charges, evidence was let before the Enquiry Officer, who found the charges to be proved and ultimately, the disciplinary authority passed an order dismissing him from service.

8. It may be stated that the enquiry was a full-fledged enquiry after which the Enquiry Officer gave his report holding that all the charges levelled against the writ petitioner were conclusively proved. The Disciplinary

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Authority forwarded the copy of the findings of the Enquiry Officer to the writ petitioner. He was allowed to send his reply, which he did. He was then asked to appear before the Disciplinary Authority on 30.12.97. He appeared and submitted a written memorandum. Thereafter, he was dismissed on 03.01.1998. He filed an appeal and personally appeared before the Appellate Authority. The Appellate Authority reviewed the punishment and took a lenient view by reducing the punishment from dismissal to discharge.

9. From a perusal of the entire record, it appears that the writ petitioner had throughout behaved in an improper and insubordinate manner. He would humiliate senior officials by his acts of indiscipline and unruly conduct.

10. In our opinion, the learned single Judge has practically acted as a Court of first appeal and has reassessed and re-appreciated the entire evidence, which he could not do under Article 226 of the Constitution of India. A writ lies when there is an error of law apparent on the face of the record and not for reviewing the evidence. A perusal of paragraph-9 of the order of the learned single Judge shows that the learned single Judge has practically acted as a Court of first appeal and has interfered with the findings of fact, which was not open to him in writ jurisdiction.

11. The view of the learned single Judge that there was no evidence in support of the charges levelled is clearly incorrect, because there were as many as six witnesses examined and also documentary evidence produced in support of the charges in the enquiry held against the employee.

12. A perusal of the charge sheet dated 30.11.1996, which has been annexed as Sl.No.3 in the Index to the Typed set of papers in this writ appeal, shows the extent of insubordination and misbehaviour of the writ petitioner. Very serious charges of tampering with the official documents of the bank and misbehaviour with the Branch Manager and other senior staff have been pointed out and proved against the employee. He tampered with the ledger of the bank on four occasions by posting withdrawal slip for Rs.354/- in the ledger against the balance of Rs.2/- available in his savings bank account. On 17.7.1996, he attended the office at 10.55 a.m, instead of coming at 10.00 a.m, which was the official time. Instead of signing the register, he struck out the remarks/notings already made by the Branch Manager and wrote some comments in the attendance register. When the Branch Manager warned him not to tamper with the bank's record, he made derogatory remarks against him in the presence of bank customers and

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

staff. Although as a clerk, he was not empowered to attest the signatures of the customers in the account opening form he has attested the specimen signatures of several customers without any authority. He started performing various other functions, which he was not authorized to do. He authenticated the savings bank account balance arrived in the ledgers. His actions were in total disregard of the banks rules and regulations.

13. On 15.2.1996, he approached the Branch Manager for renewing the overdraft limit of Rs.19,500/- against LIC policy. As the limit required by him was beyond the discretionary powers of the Branch Manager, he was advised to submit an application to get sanction from the Zonal Office. Agitated over the reply of the Branch Manager, he started shouting at him in the presence of the Branch staff and bank customers making the following remarks:-

> "Do you give money from your paternal wealth? Give immediately. Officers dissipate the bank's money. You swallow the money deposited by the public. If loan on LIC policy is demanded you say that you have power only for Rs.7000/-. If so, previously how did they sanction Rs.19,000/-? Could you take action against those persons? Take action. If you don't have power for more than Rs.7000/- why do you remain as Manager? Leave the service and go. Are we doing prostitution? Why you are not giving draft loan? "

He has also made various other derogatory remarks, which are mentioned in the charge sheet dated 30.11.1996.

14. In our opinion, there were sufficient materials for the Enquiry Officer and the Labour Court to hold against the employee. No organisation can run if an employee behaves in the manner the writ petitioner has behaved. At any event, it was not for the High Court to interfere with the findings of fact of the Labour Court and the Enquiry Officer.

15. It is well settled that in Banks, high standard of discipline and integrity must be maintained as Banks run on public confidence(vide DISCPLINARY AUTHORITY-CUM-REGIONAL MG. v. N.B.PATNAIK (JT 1996 (4) SC 457), TARA CHAND VYAS v. CHAIRMAN & DISCPLINARY AUTHORITY & ORS. (JT 1997 (3) SC 500) and STATE BANK OF INDIA Vs. T.J.PAUL, (1999) 4 SCC 759.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

16. For the reasons stated above, this writ appeal is allowed, and the impugned order of the learned single Judge is set aside. No costs.

17. Since we have allowed the writ appeal, the contempt Petition (No.1021 of 2004) is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

pv/

Copy to:

1.The Presiding Officer,
The Central Government Industrial
Tribunal - cum - Labour Court,
Chennai - 6.

2.The Assistant General Manager,
SBI, Region II, Regional Office,
Madurai-2

3.The Zonal Manager,
S.B.I.,Madurai -2

4.The Sub Asst. Registrar,
Original Side,High Court,
Madras.

+1cc to Mr.M.Muthusamy, Advocate Sr 1195

+1cc to Mr.P.Sukumar, Advocate Sr 886

+1cc to Mr. S.Jegannathan (Party in Person) SR 767

PV (CO)
km/19.1.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/